

Decision 01-10-032

October 10, 2001

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (E 3338-E) for Authority to Institute a Rate Stabilization Plan with a Rate Increase and End of Rate Freeze Tariffs.

Emergency Application of Pacific Gas and Electric Company to Adopt a Rate Stabilization Plan. (U 39 E)

Petition of THE UTILITY REFORM NETWORK for Modification of Resolution E-3527.

Application 00-11-038
(Filed November 16, 2000)

Application 00-11-056
(Filed November 22, 2000)

Application 00-10-028
(Filed October 17, 2000)

ORDER MODIFYING DECISION 01-07-033 AND DENYING REHEARING**I. SUMMARY**

This decision modifies Decision (D.) 01-07-033, authorizing the deletion of a sentence occurring on page 10 of the Decision.

II. STATEMENT OF FACTS

On July 16, 2001, the Commission issued D.01-07-033 denying Pacific Gas and Electric Company's (PG&E's) application for rehearing of D.01-01-046. In D.01-01-046, the Commission issued a temporary restraining order (TRO) prohibiting the energy utilities from refusing to honor their continuing obligation to serve all their customers. On August 15, 2001, PG&E timely filed a rehearing application asserting that a certain statement should be deleted from D.01-07-033 on the grounds that the

Commission overstepped its authority in making the statement, and there is no evidentiary basis for the statement.

III. DISCUSSION

PG&E states that the following sentence from page 10 of D.01-07-033 should be deleted:

Edison and PG&E must accept that the utilities' obligation to serve requires that they have ultimate financial responsibility to pay the ISO for the scheduling coordinator functions.

PG&E asserts that the statement was not included in D.01-01-046, and therefore the rehearing application is appropriate. (Rhg. App. at 1.) From this, PG&E concludes that there is no evidentiary basis in the record for the statement. (*Id.* at 2.) We disagree. Simply because a statement does not appear in an underlying decision is not sufficient justification to lodge an evidentiary challenge or file a rehearing application.

Rehearing decisions, more often than not, include statements that are not found in the original decision. In setting forth the rationale for the Commission's decision, it is often necessary to make explanatory statements that are not in the original decision. It is the very nature of doing rehearing decisions. There are other such explicatory sentences in D.01-07-033 that are not in D.01-01-046, nor should they be. But for the rehearing application, there would be no need to further explain.

PG&E's other reason for challenging D.01-07-033 on the basis of the foregoing statement is allegedly because the Commission purports, by the statement, to determine PG&E's financial obligations under the ISO's tariffs, and in so doing, the Commission has overstepped its authority. (Rhg. App., pp. 1-2.) PG&E reads too much into the statement. The Commission has not encroached upon matters under the Federal Energy Regulatory Commission's jurisdiction. The Commission *did not order* PG&E to assume the ultimate financial responsibility to pay the ISO for the coordinator scheduling functions. In dicta, the Commission states in essence that the utilities have an obligation to pay the bills they incur. We question PG&E's grounds for controverting our authority to make this statement. Nevertheless, the sentence is not crucial to the outcome of

D.01-07-033, nor to the Commission's determination that no grounds for rehearing were demonstrated. In order not to belabor an inconsequential statement, the sentence can be deleted.

IV. CONCLUSION

The grounds alleged by PG&E for the rehearing of D.01-07-033 are not meritorious. However, the inclusion or exclusion of the sentence does not detract from the decision's holding. Therefore, the sentence can be deleted in order not to expend further time or resources on a single sentence that is of no consequence to the rehearing decision.

THEREFORE, IT IS ORDERED:

1. The following sentence on page 10 should be deleted:

“Edison and PG&E must accept that the utilities’ obligation to serve requires that they have ultimate financial responsibility to pay the ISO for the scheduling coordinator functions.”

2. As modified, the rehearing of D.01-07-033 is denied.

This order is effective today.

Dated October 10, 2001, at San Francisco, California.

LORETTA M. LYNCH
President
RICHARD A. BILAS
HENRY M. DUQUE
JOSIAH L. NEEPER
CARL W. WOOD
Commissioners

[test to main2\(1\)](#)

[test to main2\(2\)](#)